

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 7: Rito de Tierra Amarilla

Subfile Nos.: CHTA-003-0002
CHTA-003-0005

MOTION FOR MANDATORY PRETRIAL CONFERENCE TO ADDRESS CLAIMS
BASED ON THE TREATY OF GUADALUPE HIDALGO
IN THE RITO DE TIERRA AMARILLA SUBSECTION OF SECTION 7
OF THE RIO CHAMA STREAM SYSTEM

The Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”), respectfully requests the Court to enter its *Order Setting Mandatory Pretrial Conference to Address Claims Based on the Treaty of Guadalupe Hidalgo in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System*, pursuant to Fed.R.Civ.P. 16. In support of this Motion, Plaintiff states the following:

1. On June 20, 2014, the Court entered its *Notice and Order* requiring any defendants in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System (“Tierra Amarilla Subsection”) who signed and approved individual consent orders and wished to make a claim for additional water rights under the Treaty of Guadalupe Hidalgo (“Treaty”), to file a statement of claims (Doc. 11029).

2. Three defendants filed a *Response to Notice of Order* under Docket Nos. 11038

(Harry O. Martinez, Subfile No. CHTA-003-0002, filed 08/13/14), 11039 (Virginia Martinez, Subfile No. CHTA-003-0007, filed 08/14/14), and 11040 (Mario R. Martinez, Subfile No. CHTA-003-0005, filed 08/18/14).

3. Defendant Virginia Martinez withdrew her Treaty-based claims to the use of water on October 18, 2017 (Doc. 11290 and 11290-1).

4. Accordingly, there are two outstanding Treaty-based claims in the Tierra Amarilla Subsection: Harry O. Martinez (Subfile No. CHTA-003-0002) and Mario R. Martinez (Subfile No. CHTA-003-0005). The State has made multiple attempts to contact these defendants regarding their claims. Harry O. Martinez has never responded. Mario R. Martinez indicated that he would sign and return a withdrawal of Treaty-based claims, but has not yet done so.

5. This Court's June 20, 2014 *Notice and Order* (Doc. 11029) requires that after the deadline for filing statements of Treaty-based claims has passed, the State will file a motion and proposed scheduling order to address pretrial disclosures, discovery, and motions.

6. The State has attempted to confer with the Treaty claimants regarding a pretrial order, but has been unsuccessful. Accordingly, the State requests that this Court set a mandatory pretrial conference, pursuant to Fed.R.Civ.P. 16, to discuss the scheduling of pretrial disclosures, discovery, and motions. Pursuant to Fed.R.Civ.P. 26(f)(1), the State will provide Defendants Harry O. Martinez and Mario R. Martinez with a copy of its proposed pretrial order at least 21 days before the mandatory pretrial conference.

7. WHEREFORE, the State of New Mexico respectfully requests that the Court enter its *Order Setting Mandatory Pretrial Conference to Address Claims Based on the Treaty of Guadalupe Hidalgo in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream*

System.

Respectfully submitted,

/s/ Felicity Strachan

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Certificate of Service

I certify that on November 9, 2017, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Felicity Strachan

Felicity Strachan